

REMARKS

These remarks are in response to the Final Office Action mailed August 25, 2005. Claim 59 has been canceled without prejudice to Applicants' right to prosecute the canceled subject matter in any divisional, continuation, continuation-in-part, or other application. No claims have been amended. No new matter has been introduced.

REJECTION UNDER 35 U.S.C. §103

Claims 1-24 and 55-59 stand rejected under 35 U.S.C. §103 as allegedly being unpatentable Keller *et al.* ("Electronic Noses And Their Applications") in view of Mitrovics *et al.* ("Hybrid Modular Sensor Systems: A New Generation Of Electronic Noses") and further in view of EP 0878711. Applicants respectfully traverse this rejection.

Applicants respectfully submit that the references individually or combined do not teach or suggest each and every element of Applicants' claimed invention. For example, the Examiner admits that Keller *et al.*, do not teach or suggest a transmitting device, transmitting data corresponding to a detectable signal to a remote location, or analyzing the data received at the remote location. In order to overcome these deficiencies in the primary reference, Keller *et al.*, the Examiner combines Mitrovics *et al.* with Keller *et al.*

The Examiner has not provided any motivation to combine the Keller *et al.* and Mitrovics *et al.* references as set forth in the office action; however, even if there was motivation to combine the references, which there is not, the combination fails to teach each and every element of Applicants' claimed invention. Mitrovics *et al.* is

combined with Keller *et al.* to provide the deficient elements related to transmission of the signal to a remote location. Mitrovics *et al.*, however, do not teach or suggest a transmission method selected from the internet, fiber optic cable, and air-wave frequencies. Furthermore, the combination of Keller *et al.* and Mitrovics *et al.* fail to teach or suggest a sensor or sensors comprising a composite having regions of a conductive material and a material compositionally different than the conductive material and wherein the at least one sensor provides a detectable signal when contacted by the at least one analyte. To overcome this latter deficiency, the Examiner proposes the combination of European Patent No. EP 0878711 with Keller *et al.* and Mitrovics *et al.*

The Examiner has not provided any motivation to combine the Keller *et al.*, Mitrovics *et al.* and EP 0878711 references as set forth in the office action; however even if combined the combination fails to teach each and every element of Applicants' claimed invention. The EP 0878711 references does not teach or suggest a composite sensor material, but rather teaches different alkenylene oligomers for different sensors. That is, each sensor consists of a single type of polymer and different sensors consist of different polymers. Thus, EP 0878711 does not teach or suggest a composite sensor material as recited in Applicants' claimed invention. Furthermore, Keller *et al.* fails to teach or suggest Applicants' sensor material and Mitrovics *et al.* fails to teach or suggest Applicants' sensor material. Thus, the combination of the references fail to teach or suggest Applicants' sensor material.

As set forth above, the combination of references fail to teach or suggest Applicants' sensor and/or sensor array. Furthermore, the combination of references

fail to teach or suggest a transmission process selected from the group consisting of internet, fiber optic cable, and air-wave frequencies. Thus, the Examiner has failed to set forth a *prima facie* case of obviousness as the combination of references fails to teach each and every element of Applicants' claimed invention as set forth in Applicants' independent claim 1, upon which the majority of claims depend. The Examiner is reminded, that if an independent claim is nonobvious under 35 U.S.C. §103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); MPEP §2143.03.

Claim 55 is directed to methods of characterizing a disease in a subject. None of the cited references teach or suggest such a method as recited in claim 55.

For at least the foregoing reasons, Applicants respectfully request withdrawal of the rejection.

No fee is believed to be due for consideration of the present response. Please apply any other required fees or credit any overpayment to Deposit Account No. 02-4800.

Respectfully submitted,

BUCHANAN INGERSOLL, LLP

Date: _____

9/23/05

By: _____



Joseph R. Baker, Jr.
Registration No. 40,900

Buchanan Ingersoll, LLP
Suite 300
12230 El Camino Real
San Diego, CA 92130
(858) 509-7300